

MINUTES

Tennessee Board of Examiners for Land Surveyors

The Tennessee Board of Examiners for Land Surveyors met on October 23-24, 2003 in Room 212 of the Davy Crockett Tower, Nashville, TN.

Thursday, October 23, 2003 –

Those present were: K. Max Billingsley, Chairman; Marshall H. (Pete) Ragan, Board Member; David Mathews, Board Member; Scott Ledford, Staff Attorney; Donna Moulder, Administrative Director for the Board; and Carol Kennedy, Administrative Assistant for the Board.

Dave Gilbert, public board member was not present.

Chairman Max Billingsley called the meeting to order at 12:00 p.m.

Scott Ledford presented the following complaints:

INFORMAL CONFERENCE – Complaint # 200313614 – Phillips vs. Campbell

The complainants, Mr. and Mrs. Duran Phillips and the respondent, Mr. Everett Campbell, TLS #1488, were present for this informal conference.

This complaint is essentially a boundary dispute and the relief that the complainant requested is beyond the board's reach. However, the complainant validly asserts a failure to notify him of adverse possession. The Respondent noted that he was unaware of any such requirement in November 2000. The notification requirement went into effect in June 2000.

The complainant has sold the property in question and has moved to Alabama since filing this complaint.

Max Billingsley made a motion that the board has no jurisdiction over where the line was placed, but the surveyor, by law, should have given notice to the adjoiner of a discrepancy with the property line. Pete Ragan made a motion to dismiss the part of the complaint dealing with the boundary dispute. David Mathews seconded the motion. The motion carried unanimously. Mr. Ragan further made a motion to offer the respondent an Agreed Order of \$250.00 for violating TCA 62-18-124(d). David Mathews seconded the motion. The motion carried unanimously.

INFORMAL CONFERENCE – Complaint #200313624 – Humphrey vs. Williford

Mr. Donald Humphrey, the complainant, and Mr. William Williford, TLS #1689 were both present for this informal conference. Meredith Sullivan, Legislative Coordinator for the Department of Commerce and Insurance was also present.

This complaint was originally dismissed due to the fact that it appeared to be a boundary dispute at the July 1-2, 2003. This is an appeal of the original complaint.

Although this is essentially a boundary dispute, the complainant has two underlying claims – that the respondent did not follow the deed when doing the survey and that the respondent was not properly responsive to the complainant.

Mr. Ragan asked the complainant if he was “happy with this plat” and the complainant stated “with the last one, yes.”

Mr. Billingsley informed the complainant that he was dealing with a boundary dispute and the Land Surveyors Board has no jurisdiction whatsoever over the actions of a boundary or looking at deeds or evaluating boundary evidence. Mr. Billingsley stated that the board was not sitting in judgment there. Mr. Billingsley stated that the only jurisdiction that the board has is over the surveyor and his conduct and his following the rules and regulations of the surveying law.

Mr. Ragan asked the respondent if he felt like he responded to this matter in a timely fashion and the respondent answered “Yes, I do, but during the time we had one appointment to go down there in December and it was raining that day. It rained nearly everyday in December and January and February. I think it was late January or early February before we finally got down there on a day that we both could be there and run the line. And then I mapped it and delivered it with a week or two of that. I responded as quick as I could.” Mr. Humphreys stated that the property was “surveyed in October, not December.”

Max Billingsley stated that “the board was looking at this from the standpoint of the public. What he has done, whether it was timely, untimely or miscommunicated or whatever, the final action is unacceptable to you, what we’ve done so far. The question is we need to wrap up whether or not the surveyor acted in accordance with all our rules and laws. That’s the only issue we can give them. Whether the fence is the line, the creek is the line; I’m not going to read any deeds. I can’t read any deeds; I have no jurisdiction to do that. I can as a private surveyor, but not as a member of this board, so therefore, that is not an issue that we have any jurisdiction over at all. The only issue we have is whether or not there is evidence, clear evidence that the surveyor acted within all the laws and rules here.”

Mr. Ragan then asked Scott Ledford, the staff attorney for the board, which section did he feel like there might be some violation?

Mr. Ledford answered that he was “not sure that there is.” Mr. Ledford stated “the section would be, there’s a section that requires a surveyor use the latest recorded deed when he did the survey. The section doesn’t require that he produce a plat that matches the latest survey; it’s just that you are required to use the latest recorded survey as one of the tools that you use when you do your survey.”

Mr. Ragan stated that “it’s one of the tools you use.”

Mr. Ledford continued “it’s one of them. And to me, I don’t see clear evidence that he just didn’t use the survey. This survey right here indicates that he’s aware of a boundary dispute or potential problem that doesn’t match the deed and the only way he could know that, in my mind, is if he had looked at the deed. But, that ‘s not my call to make, of course.”

Mr. Humphrey asked “why would a person continue running something that doesn't seem right, doesn't look right, doesn't follow the deeds. He's going north instead of west.”

Mr. Ragan said “that's where, he thought the fence was the property line. He's got a bounded deed. His deed doesn't call for the creek.”

Mr. Humphrey stated that “it calls for east of Humphrey.”

Mr. Billingsley stated that “beyond that, if he looks, if he goes out and examines a piece of ground that's got a boundary deed, he would look for any evidence of any kind of barrier whatsoever and there was a fence, although you say it was a cross fence, it might have looked like a boundary line to him.”

Mr. Humphrey stated that “at one time my fence didn't even go over to the goose line. It went up to the top of the hill and went to the barn. If my fence had went to the barn and circled it three times, would he still surveyed it that way?”

Mr. Billingsley answered “he could have, because he's out there doing the best he can with what he's got and it looks to me like he's responded, he's provided notice that this might not be right, it needs to be checked into and then, you the adjacent land owner has come out and it's been worked out over there on the thing and just , the communications and the responses might not have been as crisp as you would like to see, but as far as I'm concerned, I see no violations of any of the rules that I am aware of.”

David Mathews stated that “I might have done a little something different. I might have shown the creek on there, but I would have definitely shown the stone fences. I think those fences are good evidence, hostile evidence of adverse possession. It does look like, although he didn't show the creek, he does evidently notify that there is a problem there and that something needs to be worked out.” Mr. Mathews then made a motion that the board uphold the previous dismissal of this complaint. Pete Ragan seconded the motion with discussion. The motion carried unanimously.

Meredith Sullivan, Legislative Coordinator for the Department of Commerce and Insurance, asked the board “is it a common practice to not follow the deed and look at something above ground as a visual landmark when surveying property?”

Mr. Billingsley answered “there is documentary evidence and there is physical evidence and it's all balanced out. The board has no jurisdiction whatsoever to make any judgment about any documentary evidence or any physical evidence about the placement of the line. It is strictly the state courts that are going to do that.

Ms. Sullivan then asked, “You all create standards of practices for land surveying, correct?”

Mr. Billingsley answered, “We create standards of practice.”

Ms. Sullivan continued, “Right, and in your standards of practice, you say that what is a land surveyor supposed to follow when determining what is property.”

Mr. Billingsley stated, "The new standards will address some of the procedures used, but there is no, we cannot say that you will use this particular evidence over other particular evidence if you've got boundary evidence that might be very different from what the documentary evidence shows and we cannot put any kind of rules together that will absolutely positively tell him what he's got to do."

Ms. Sullivan asked, "What does a land surveyor go by?"

Mr. Ragan answered, "The first priority is surveyor's monumentation."

Ms. Sullivan asked, "And that's it?"

Mr. Ragan answered, "And that's markers, concrete markers, iron pins, something obviously put down by a surveyor. That's the first highest evidence that we have to establish boundaries. And the second one is distances. And the third one is bearings, and it's kind of in that priority. That's the priorities that the courts have set."

Mr. Billingsley stated, "That's case law, now and not ..."

Ms. Sullivan then asked, "Where does the deed, where is what a deed says?"

Mr. Ragan answered, "A deed is a guide to find those monuments and to find those corners. And the problem is the deed, in the case of the Goodwin's deed; it probably doesn't have any distances in it. It's bounded by him on the north, by Joe Blow on the south and by Jack on the west and by somebody on the east. We, in the State of Tennessee, have let people sit down and write those kind of deeds, if you will, what we call 'living room deeds' and the poor surveyors have to go out and put his life on the line between property owners killing each other and say here's the property line. How can you do it? You can't do it. So you have to use physical evidence, fences, possessions lines, marked trees, painted trees, anything you can find out there to establish possession or something in here we're looking for. We don't know where to go either. If it calls for a string, yes, but then it goes back to adverse possession. There's a lot of factors. You just can't say you've got to follow the latest deed. That's just one thing. You've got to use highway plans, which are not of record in a lot of the offices, you've got to use Corps of Engineers information, which is not of record in the county courts, we've got to use everything you can dig up in the world to come up and try to make and sit down is a puzzle and try to put this thing together and say which one of these has priority over the other and then make your decision. You make your best decision. And another surveyor might come back and make a different decision. And then courts might decide something different."

NEW BUSINESS:

Ryan McMasters met with the board, per his written request, to discuss his licensing eligibility. Mr. McMasters graduated from the University of Kentucky in 2000 with a degree in civil engineering. He has spent three years working for a dual certified licensed land surveyor and professional engineer in Kentucky. He passed the LSIT in Kentucky in April 2003. Mr. McMasters wants to know where he stands with the application process of taking the licensed surveyor test. Mr. McMasters feels that he has met the educational requirements as well as the experience requirement.

Complaint review continued:

Complaint #200315195 – Elliott vs. Gibbs –

Mr. John Elliott, the complainant, was present.

The complainant in this matter asks that adjoining land owner's "quick claim" deed acquired with the help of the respondent's survey be declared invalid because the survey was illegal. The complainant's claim is for "surveying across my property line in two different places without my knowledge." The complainant alleges that the respondent said that he was surveying 2.6 acres of the complainant's land that wasn't on the deed of the land that he was supposed to be surveying, but that the respondent did so anyway because his client want him to so that the client could try to claim the property as his own. The complainant then alleges that the respondent's client did precisely that by getting a "quick claim" deed that encompassed the complainant's 2.6 acres, and that he, the complainant has had to spend over \$4000 in legal fees to try to reclaim the property as a result of this "illegal survey." The respondent indicates that this dispute is being worked out by respective attorneys and that he eventually set a line for the purpose of defining the dispute.

There was no factual evidence presented to show that any laws have been violated. Max Billingsley made a motion to dismiss this particular complaint because it is out of the board's jurisdiction to have quit claims set aside and no violations of the land surveying law and rules were found. David Mathews seconded the motion. The motion carried unanimously.

Complaint #200315812 – Pack vs. Thaxton –

Mr. James Pack was present, per his written request. Chris Cravens, attorney for Thomas Thaxton, was also present. Robert Gowen, Assistant Commissioner for the Department of Commerce and Insurance Regulatory Boards, was present.

Complainant alleges that "the respondent over surveyed the Christian (sic) farm only come to Crisp Spring and Daylight Road. 1. Misconduct; 2. Falce (sic) claim; 3. Faild (sic) to do a complete title search; 4. Abouse (sic) of authority; 5. Unethical; 6. Faulty surveying." The complainant supplies deeds and maps to substantiate his complaint.

The respondent points out that the complainant has failed to specifically state the factual basis for the charges and that the respondent does not need to respond to this complaint.

The respondent denied all of the complainant's allegations and provided evidence that he never surveyed the property in question.

Chris Cravens, attorney for the respondent, stated that, "It is my understanding that this complaint was filed by Gary Bruce Pack against Thaxton Surveying. On the face of the complaint it says Gary Bruce Pack and on the signature line it is signed by Gary Bruce Pack by James Pack. When I came here today, I thought that I was here on behalf of Thaxton Surveying to answer and to monitor the proceedings with regard to a complaint filed by Gary Bruce Pack concerning the Mitchell property that Mr. Thaxton did not survey. So I'm confused. Who is the complainant?"

Hayden Bradley, who accompanied Mr. Pack, answered "Mr. Thaxton did survey the Mitchell property. It's in the court testimony."

Mr. Cravens stated, "That's ten years ago, sir."

Mr. Pack answered, "Let me answer his question, gentlemen. I have power of attorney for Gary Bruce Pack. Both of us can't be in one place at the same time. We work to make a living up there and I'm down here to represent Gary Bruce Pack. I have a power of attorney."

Mr. Cravens stated, "You're not an attorney, Mr. Pack and you cannot represent anyone in a judicial proceeding unless you're an attorney."

Mr. Pack answered, "Well, I'm here to go before the board for Gary Bruce Pack."

Scott Ledford, Attorney for the Board asked, "Where is your power of attorney?"

Mr. Pack stated, "It's up there in the files. I can get it to you."

Mr. Ledford then stated, "Well, certainly, counsel's raised a valid point that statute requires that the charges be sworn to by the complainant. If the complainant is Gary Bruce Pack, which on the face of the complaint it is, then his complaint did not appear to be signed properly. It would appear to be an improper complaint, because it's not sworn to by the complainant."

Mr. Pack stated, "Betty Pack is a school teacher, my son's wife; Gary Bruce Pack, that's his signature; this is James Pack's signature right here."

Mr. Ledford answered, "Um hm, but the complainant is identified as Gary Bruce Pack."

Mr. Cravens stated, "The property in question is owned by Gary Bruce Pack."

Mr. Pack stated "that I will have a power of attorney to represent Gary Bruce Pack before the board."

Mr. Ledford asked Mr. Pack if he could produce the power of attorney at some point and Mr. Pack answered that he could fax to him "in the morning."

Mr. Pack stated that the reason that he was here today is that "Tom Thaxton, the land surveyor, can come up there and not do a title search on this farm and jump from one to the other and pick up 11 acres of property, go right down the road a mile and a half to the Mitchell farm, the same people, and survey out 3 or 4 acres that belongs to Landon McCormick and his mother, his mother is 75 year old or maybe a little older than I am and can't do anything about it, and when he pulled that fence out yonder from the Crisp Springs Daylight Road over here 400 feet, 2 or 3 acres, then he pulled it up on the back side; that's the Will Christian farm, which is owned by Packs, a majority of it, about half a mile across there. Tom Thaxton is a land surveyor. I've got a letter up there stating that Tom Thaxton is a land surveyor for Vila Mitchell, in my files. Now, Mr. Thaxton will survey from fencepost to fencepost and he can't have any ?, but if he don't do a title search, gentlemen, and take the Mitchell deed and the Pack deed and every deed around it, and do a title search on it, then his survey is not much."

Mr. Ledford asked Mr. Pack, "Just to clear up, cause of all these names, I don't know these people and these names jumble up in my head, you produce a survey that took place in '93 for the purpose of what now? You said he over surveyed back in 1993, but why is that relevant to this complaint?"

Mr. Pack answered, "He's the same man and he's still taking property off of people up there. Tom Thaxton over surveyed this up on the highway, that's the reason I was pointing it out to you. He over surveyed that over there. Mr. Tom Thaxton is the same man."

Mr. Ledford answered, "My understanding is that the court has already found otherwise regarding that 1993 survey. It's found in his favor, so the survey is accurate."

Mr. Pack said "Ladies and board members, I can't compete with Scott and Chris Cravens and Robert as attorneys. I can only state you the cold hard facts about who owns this property, what the deed says, and I can tell you today, there's Hayden Bradley, there's Frank Rodgers that's got the first mortgage on this property here. Hayden, when you go down the Crisp Springs Road a mile and a half and do the same thing, same man, Tom Thaxton, course he denies that."

Scott Ledford replied, "I want to narrow this down to the complaint at hand. The cold hard facts are that the '93 survey that you are referring to have already been found to have been accurate by a judge to the extent that that survey is even relevant to this complaint, that survey has been found by a chancery court to have been proper, so I'm not really sure how that helps this board determine whether or not Mr. Thaxton has violated any standards of conducts or laws related to land surveying when he allegedly surveyed this property, the Christian Farm."

Mr. Pack then responded, "This is a oak tree, that's a hundred year old, located on 70S Nashville Highway, that's been there over a hundred years, according to the deeds. This is corner tree. These Mitchell people took Ms. Young to court and she beat him. He tore the fence out from this tree line and she made Mitchells pull the fence back twelve feet and they call it a 'devil's lane.' Tom Thaxton surveyed to that devil's lane fence post. Tom Thaxton didn't hit one corner of this survey up here."

Chris Cravens asked Mr. Pack, "When? What year?"

Mr. Pack responded, "1993."

Mr. Cravens then asked Mr. Pack, "What's that have to do with your complaint before the board today?"

"He is the same man and he is still doing the same thing today," said Mr. Pack.

Mr. Ledford then said, "Honestly, I must inject here, that the courts found that he did hit the corners. Chancery court has ruled that that 1993 survey was correct. I really hope that what we can do here to is . . ., cause this complaint, as written doesn't give the board a lot of facts to work with. And rather than talk about a 1993 survey which has already been litigated and decided upon and found to be correct by a Chancery Court, what would be most useful to the board, I suspect, and board, correct me if I'm wrong,

would be if you could elaborate on your allegation that in fact he did over survey the Christian farm back in March over onto your property, because in the respondent had responded by denying that, and he has included a copy of the check that he used to refund that client's money and he has sworn an affidavit saying that he did not do that survey and that he did some preliminary work, but then backed out of, excused himself from that project and so what we need here today, is something from you that will offset, that will show that Mr. Thaxton is incorrect here because he has included documentary evidence to the effect that he didn't do survey on that property."

Mr. Pack stated, "Here's where I'm coming from. Tom Thaxton lied under oath that there's only one road and that's the Crisp Springs Road. It's in the court record and we're talking about outcome of this 1993."

Mr. Ledford then quoted statute TCA 62-18-116 that defines what the board's authority is in terms of discipline. Mr. Ledford said, "I'm not sure undertaking an exploration into whether or not Mr. Thaxton committed perjury back in 1993 falls within the scope of the board's authority under that statute. So, again, the 1993 information offered us is not something that the board, the board cannot disregard the court's finding in 1993. The chancery court has found that survey was correct, if in fact that was the exact language."

Mr. Billingsley then stated, "If anything happened in that court, as far as I'm concerned and as far as I see any jurisdiction that would come from this board, if there was perjury there, then it should have been treated in that particular case and if comes out that, uh, and you're trying to bring it into another forum, rather that back to that court, who had the jurisdiction of that entire issue, then all we can do is refer it back to that court to say there's evidence, if you do in fact have evidence, that he lied about two roads or whatever, intentionally and had that proof, then it should have been handled in that court. We are not going to second guess some chancery court proceedings from 1993."

Mr. Ledford stated, "What you've presented today so far, of most interest to me is your statement that you're contradicting what Tom Thaxton has said in his affidavit. You're saying that he did over survey the Christian farm, saying that he's put stakes down that weren't visible, they were kind of low so they were kind of . . ."

Mr. Pack said, "They weren't low. They was a ribbon with a nail stuck in it in the ground flat to the ground with the leaves blowed over it. You couldn't see 'em until after the rain washed."

Mr. Ledford asked Mr. Pack if he had any evidence of that and Mr. Pack answered, "Yeah, I can bring it to you and show it to you. Or if we can get an investigation up there, I can take you out there on the property and let you see it."

Mr. Ragan stated, "Mr. Pack, you've been here a couple of times before and I think every time you've been here before, was a similar situation, similar case. And I advised you a number of times to get us some hard evidence and basically another surveyor. Mr. Thaxton is not the only surveyor in Tennessee. And why don't somebody who's got these properties, you imparticular, that he's over surveying on you, why don't you have your property surveyed by somebody else and bring us that survey and we can hang it on the wall and we can show Thaxton's survey and we got something to go from."

Mr. Pack replied, "Okay."

Mr. Ragan continued, "I've asked you to do that a number of times and nobody's ever done a survey that I know of. We've got to go from a surveyor's standpoint. We can't go from here say from you about what he's done and what he's not done. There are certain things that he has to make up his mind about where property lines are. It's more that deeds, it's more than fences, it's more than a lot of things. There's a lot of issues that come about in establishing where a property line is. And another surveyor knows those issues just like Thaxton does and if Thaxton continues to make the same old mistakes and another surveyor brings us another survey in here, and it shows that, then we've got something to go on."

Hayden Bradley, who came to the meeting with Mr. Pack, read a portion of the trial transcript from the 1993 trial that states that Mr. Thaxton did survey the property. Mr. Ledford informed Mr. Bradley that the complaint in question is about a survey that allegedly took place in 2002.

Mr. Cravens, attorney for the respondent said, "There's no dispute that Mr. Thaxton surveyed the property adjoining Mr. Pack in 1993. We're not disputing that. What we are disputing is that he performed a survey in 2002 as alleged in Mr. Pack's complaint, Mr. Gary Bruce Pack's complaint. If he did the survey, show the survey plat."

Mr. Bradley asked, "The one in 2002?"

Mr. Cravens responded, "Yes sir. Where is it? Do you have it, James?"

Mr. Pack answered, "Yeah, we have a plat of it. Let me see if I brought it today."

After further discussion, Scott Ledford asked Mr. Pack the following, "Today you are accusing Tom Thaxton, just confirm it for me, in front of all these people you are telling everybody that Tom Thaxton's a perjurer, is that correct?"

Mr. Pack answered, "I'm telling you that Tom Thaxton does not do a complete survey and the survey is from fencepost to fencepost and his surveying is not reliable."

Mr. Ledford then asked, "You are saying, in front of all these people, that he is abusing authority."

Mr. Pack said, "I am saying he lied under oath to Judge Hastings according to the record."

David Mathews moved to dismiss this complaint based on the fact that no evidence was submitted to support the current complaint. Pete Ragan seconded the complaint. There being no further discussion, the motion carried unanimously. The board will no longer hear any issues with regard to this complaint. The chairman of the board reiterated the point that this decision was **FINAL**.

Complaint #200314426 –

This complaint alleges that the respondent did not follow the deed and that therefore, the complainant's land was "taken." However, the complainant has been sued by the

adjoining landowner over his actions in disputing the boundary and the Chancery court has ruled that “the survey of the [respondent] . . . is accurate . . .” and the complainant was enjoined from interfering with the boundary marker, and from interfering with or trespassing upon the adjoining property. The complainant sued both the respondent and the Chancellor in federal court and lost.

Pete Ragan made a motion to dismiss this complaint, as per the Chancery court ruling. David Mathews seconded the motion. The motion carried unanimously.

Complaint #200316248 –

The complainant makes allegations against the respondent’s employer. The only place that the respondent’s name appears is in the title of the complaint; it does not so much as appear once in the text of the complaint. The complainant supports the complaint with copies of engineering drawings.

David Mathews made a motion to dismiss based on the fact that there was no factual basis or evidence for the complaint. Max Billingsley seconded the motion. The motion carried unanimously.

Complaint #200312000 – Batty vs. Nail –

The staff attorney received the signed Agreed Order and payment of the civil penalty on October 23, 2003. Complaint was closed.

Complaint #200209177 – Board vs. Cannon –

Max Billingsley made a motion to close this complaint and deny the respondent’s new application for licensure as he is not in good standing with the Board. Pete Ragan seconded the motion. The motion carried unanimously.

Complaint #200103677 – Finck vs. Shipley –

The respondent was previously sent a consent order with a \$1,000.00 civil penalty for practicing land surveying without a license. Respondent signed a consent order at an informal conference in April 2003, but has not paid the civil penalty. Max Billingsley made a motion to close this complaint and send, from the staff attorney, the respondent a Cease and Desist letter which will also inform the respondent that the matter has been turned over to the District Attorney for prosecution. Pete Ragan seconded the motion. The motion carried unanimously.

Complaint #200315728 –

The complainants are alleging that the survey was contracted for in advance of the purchase of the land while the complainants lived out of state. The original survey allegedly never indicated a building encroachment on the property, which was not discovered until after the purchase. The complainants allege that the survey never took place and that the respondent simply used an old survey. The respondent denies the allegations. The respondent says that the building addition was built after the original survey. There is no evidence presented by either party. Since filing the complaint, the complainants have given the disputed property to the neighbor.

Max Billingsley made a motion to dismiss the complaint. David Mathews seconded the motion. The motion carried unanimously. After further discussion, Max Billingsley made a motion to rescind his original motion. David Mathews rescinded his second to the motion. The motion carried unanimously. Max Billingsley then made a motion to defer this complaint so that the complainant can have time to send in more evidence to "tie this time line thing down." Pete Ragan seconded the motion. The motion carried unanimously.

Complaint #299314681 –

The complainant alleges that the respondent failed to mark a cemetery on a 69 acre piece of property that the respondent surveyed. The complainant has no legal interest in the property. The respondent answers that the area was rugged and overgrown in east Tennessee and he simply could not locate the cemetery, and that the deed was vague as to the exact location of the cemetery. Apparently the land has since been cleared and two marked graves are now visible. Other unmarked graves have also been found by an archeologist. There is an issue as to whether the part of the land containing the gravesites was even included in the deeds. However, the graves have now been graded away. The latest recorded deed at the time simply mentioned a grave yard or burying ground, but does not disclose the location. Recently, a deed has been prepared that does not even mention the burying ground at all.

Max Billingsley made a motion to hold an informal conference with the respondent and inform the respondent that the board feels that there is a question as to whether or not due diligence was done in this matter. David Mathews seconded the motion. The motion carried unanimously.

Complaint #200316305 – Wise vs. Acheson –

It appears that the complainant is complaining about the respondent's plat as it relates to an easement. The complainant alleges that the measurement from the centerline to the tie point is off by six feet, and that no width is given, and that not enough "turns" are indicated on the road.

The respondent alleges that at the time, there was no recorded easement, so he chose to mark it as an "access road." Since it wasn't an easement or right-of-way, the respondent didn't mark it like one by indicating width, etc. The respondent feels that he simply has a professional disagreement regarding the number of turns and the distance from the center point to the tie point. The respondent apparently performed a category II survey on this rural property. The plat is dated prior to the filing of the complaint in Chancery court that asks for declaratory relief in the form of the establishment of an easement so the easement could not have been established at the time of the plat.

This complaint will be held in abeyance until tomorrow's (October 24, 2003) meeting;

There being no further business, the meeting was adjourned at 6:00 p.m.

FRIDAY, OCTOBER 24, 2003 –

Those present were: K. Max Billingsley, Chairman; Marshall H. (Pete) Ragan, Board Member; David Mathews, Board Member; Scott Ledford, Staff Attorney; Donna

Moulder, Administrative Director for the Board; and Carol Kennedy, Administrative Assistant for the Board.

Dave Gilbert, public board member was not present.

The meeting was called to order at 3:55 p.m. by Chairman Billingsley.

Scott Ledford presented the following complaints:

Complaint #200315196 -

At the request of the staff attorney, Pete Ragan reviewed this complaint. This complaint appears to be a boundary line dispute. The complainant also alleges other violations of applicable laws such as violation of tax maps, incompetency, fraud, conflict of interest, etc.

Mr. Ragan recommended that the board to ask the respondent to appear before the board for an informal conference. Max Billingsley made a motion to ask the respondent to appear before the board for an informal conference. David Mathews seconded the motion. The motion carried unanimously.

Complaint #200316305 – Wise vs. Acheson –

The board reviewed this complaint at yesterday's meeting (October 23, 2003). After further review of the complaint, Pete Ragan made a motion to dismiss this complaint. David Mathews seconded the motion. The motion carried unanimously.

OLD BUSINESS:

Myron Tipton, TLS #1499 (expired) –

Mr. Tipton appeared before the board at the September 2, 2003 meeting to explain why he has been surveying without a license. His Tennessee land surveyor's license expired December 31 1997. Mr. Tipton also submitted an application for relicensure as required by law. The board issued a civil penalty of \$3,000. This penalty was paid by Mr. Tipton on October 23, 2003. The board then reviewed Mr. Tipton's application, two plats and descriptions and an updated experience page. Max Billingsley made a motion to accept Mr. Tipton's application and re-issue him a Tennessee land surveyor's license. David Mathews seconded the motion. The motion carried unanimously.

The next meeting has been scheduled for January 8-9, 2004.

There being no further business, the meeting was adjourned at 6:00 p.m.

Respectfully submitted,

Donna Moulder
Administrative Director

K. Max Billingsley, Chairman

Marshall H. (Pete) Ragan

David L. Mathews

Dave Gilbert